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BEFORE THE ARIZONA CORPORATION COMMISSION
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Arizona Corporation Commission

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JEFF HATCH-MILLER, Chairman
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KRISTIN K. MAYES
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2006 NOV - 1 P 2: 21

AZ CORP COMMISSION
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IN THE MATTER OF THE APPLICATION OF
ALLTEL COMMUNICATIONS, INC. FOR
DESIGNATION AS AN ELIGIBLE
TELECOMMUNICATIONS CARRIER
PURSUANT TO SECTION 214(e)(2) OF THE
COMMUNICATIONS ACT OF 1934

DOCKET NO. T-03887A-03-0316

**MOTION OF COMMISSION STAFF
FOR AN ORDER ACCEPTING ALLTEL'S
RELINQUISHMENT OF ITS ETC STATUS IN ARIZONA**

On May 19, 2003, Alltel Communications, Inc. ("Alltel")¹ filed an application with the Commission for designation as an Eligible Telecommunications Carrier ("ETC"). On November 11, 2004, after a lengthy contested case hearing, the Commission issued Decision 67403 which granted Alltel's application conditioned upon the Company's compliance with certain conditions.

Not long after Decision 67403 issued, Alltel filed a letter with the Commission declining its designation. In addition, Alltel believing it had relinquished its designation, did not comply with any of the conditions contained in the Commission's Order. Recently, Alltel filed a letter with Utilities Division Director Ernest Johnson asking to withdraw its earlier letter relinquishing its ETC status.

Staff requested that a procedural conference be convened to discuss Alltel's letter and a process for resolving the issues raised by Alltel's letter. A procedural conference was held on October 20, 2006, at which Alltel, Commission Staff and the Arizona Local Exchange Carriers Association ("ALECA") were present. Staff's position at the procedural conference was that Alltel's letter in and of itself may not have been sufficient to constitute relinquishment by Alltel of its

¹ Since Alltel's original application was filed, Alltel merged with Western Wireless. Western Wireless continues to operate, however, as a separate subsidiary of Alltel. Western Wireless has a separate application pending with the Commission for ETC designation.

1 designation. Absent a Commission order approving Alltel's relinquishment, it is Staff's position that
2 the designation likely still remained in effect. This interpretation is supported by the language of 47
3 U.S.C. Section 214(e)(4), although Staff recognizes that a different interpretation could also be
4 reached since Alltel had not yet begun serving customers.
5

6 Notwithstanding the issue of whether the letter by itself was sufficient to constitute
7 relinquishment by Alltel of its designation, Alltel's ETC status was conditioned upon its meeting
8 certain conditions set forth in Decision 67403. Because the designation was conditioned upon
9 compliance, Alltel's failure to comply with the conditions in the timeframes set forth were enough in
10 Staff's opinion to nullify the designation. Alltel essentially "relinquished" its designation by not
11 complying with the conditions precedent set forth in the Order.

12 Alltel's position at the hearing was that it had been advised by Commission Legal Staff in
13 2004 that the letter would be sufficient to achieve relinquishment of its ETC designation. It further
14 stated that it acted in good faith based upon those conversations and that its actions should not be
15 interpreted as willful noncompliance with a Commission Order. It agreed with Staff, however, that
16 from a process perspective, given the number of legal and other issues surrounding "resuscitating" its
17 old designation, it would probably be better to agree to relinquishment of its old designation, and
18 simply file a new application.

19 ALECA, an intervener in this case, was not opposed to the disposition of Alltel's ETC status
20 in the manner discussed at the hearing and described above.

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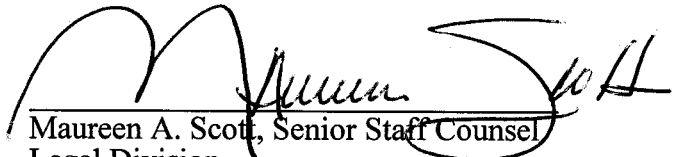
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1 Staff, therefore, requests that the Commission enter an order formally recognizing Alltel's
2 relinquishment of its ETC status in Arizona.

3
4 RESPECTFULLY SUBMITTED this 1st day of November, 2006.

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6 
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